IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11180 of 2004

Between:

S. Umamaheswar S/o. Srinivasulu, Hindu, aged 47 years,
Conductor, E.No.99283, R/o. D.No. 5/471, Vth Road,
Ananthapur, Ananthapur Dist.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur Depot, Anantapur.
2 The Divisional Manager, APSRTC, ANANTHAPUR.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ, declaring the action of the 1st respondent in deferring one annual increment with cumulative effect vide his proceedings bearing No.:02/95(19)/04—ATP dt. 20.4.2004 is illegal, arbitrary and in violation of principles of natural justice and in violoation of articles 14 & 21 of the Constitution of India and consequently direct their respondents to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner : Mr. S.SURENDRA KUMAR,Advocate

Counsel for the Respondent Nos.1 & 2: MR. P. VINAYAKA SWAMY, Advocate

The Court at the admission stage made the following :

ORDER:

The petitioner is working as Conductor in the respondents Corporation. On 03.02.2004, while he was conducting the bus bearing No.AP 11-Z-429 on routeBangalore –Ananthapur, a check was conducted by the R.E.S., Ananthapur and though no cash and ticket irregularities were found, the petitioner was given a charge sheet dated 12.02.2004 with the following charge:

> *"for having collected the fare and issue tickets bearing No.247/255156 to 157 of Rs.10/- and 433/673916 to 917 of Rs.2/- to an individual passengers at the boarding point itself (ie., Stage No.11 Gowribidanur). But accounted only Rs.2-00 denomination ticket and failed to account the Rs.10/- denomination E.2 tickets at stage No.11 while you were conducting the vehicle AP 11 Z-429 on 3.2.2004 on route Bangalore to Ananthapur which constitutes a misconduct under Reg.28(X) of A.P.S.R.T.C. Employees (Conduct) Reg 1963".*

2. Thereafter, the petitioner gave an explanation denying the charge levelled against him. Without considering the explanation and without conducting any enquiry, a show cause notice dated 17.03.2004 was issued to him and again he submitted his explanation dated 05.04.2004. However, without considering his explanation, the first respondent issued orders vide proceedings No.02/95(19)/04-ATP dated 20.04.2004 deferring one year annual increment with cumulative effect. Thereafter he preferred an appeal before the second respondent and the same is pending before the second respondent.

3. Heard both sides.

4. The learned counsel for the petitioner contended that the punishment imposed upon the petitioner is a major penalty and the same was awarded without conducting any departmental enquiry. On the other hand, the learned Standing Counsel for the respondents did not dispute that the imposition of punishment is a major penalty.

5. There cannot be any dispute that imposing a major penalty should be preceded by a departmental enquiry. Admittedly, no departmental enquiry is conducted in this case. After calling for the explanation from the petitioner, the impugned order is passed. In such circumstances, it may not be desirable for this Court to remit back the matter to the respondents for conducting a fresh enquiry.

5. In the peculiar facts and circumstances of the case, this Court is of the opinion that the punishment can be reduced to one of a minor penalty for which no enquiry need be conducted. The charge levelled against the petitioner is that he failed to account the two tickets of Rs.10/- each issued to two individual passengers who boarded the bus at state No.11 Gowribidanur. The explanation of the petitioner is that he has no intention to misappropriate the Corporation fund. The duty is cast upon the petitioner to account for the amount collected from the passengers for issuance of tickets properly. Therefore, the first respondent rightly found the explanation of the petitioner was not satisfactory. There are no reasons to deviate from the findings given by the first respondent insofar as to the rejection of the explanation of the petitioner. However, the punishment is a major penalty and it can be reduced. Therefore, the impugned order is modified deferring one annual increment only without cumulative effect.

6. The writ petition is accordingly disposed of. In the circumstances of the case, no costs.

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K.C. BHANU, J

05th July, 2004.
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To
1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur District

2 The Divisional Manager, APSRTC.,Ananthapur.
3 Two CD Copies.